



ANNEX B

RULES AND PROCEDURES  
GOVERNING SELF-POLICING

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The Members of TAAFLO (the "Conference"), parties to FMC Agreement No. 202-010714, hereby establish, pursuant to Articles 5.1(f) and 10.2 of said Agreement (the "Agreement"), the following rules and procedures governing self-policing.

SECTION 1: ENFORCEMENT AUTHORITY

(a) Appointment of Enforcement Authority

The Conference may appoint an independent neutral body, other entity, individual or the Chairman to serve as its Enforcement Authority ("E.A.") for the purpose of policing the obligations of the Members under the Agreement, investigating alleged breaches thereof and assessing fines in connection therewith. The appointment of the E.A. shall be for such a term and upon such conditions as the Members may determine.

(b) Neutrality.

Neither the E.A., nor any person employed or engaged by it for these policing purposes, shall have any financial interest in any Member of the Conference and conflicts of interest shall be scrupulously avoided.

(c) Functions.

The E.A. shall on its own initiative or at the direction of the Conference:

(1) review operations of Members and commence, conduct and terminate such investigations as it considers appropriate or as the Conference may direct;

(2) receive complaints, whether formal or informal, alleging any breach by a Member of its obligations under the Agreement and investigate such complaints;

(3) audit or inspect books, accounts, documents and other records, property and facilities used by any Member or its Associates, wherever located, that pertain to any review or investigation, and interview and take statements of any person with respect to matters under review or investigation. Any such inspections or interviews may be conducted with or without prior notice. Each Member pledges the cooperation of its auditors in the event the E.A. requests their assistance. If in the course of general reviews, or investigations of particular matters, the E.A. finds evidence of any breach of a Member's obligations, it shall proceed against the Member as provided herein;

(4) make determinations based upon the record developed in investigations it conducts; and

(5) provide reports of its activities and determinations to the Conference as stipulated herein or as may be additionally requested by the Conference and impose fines, within the limits and subject to the standards hereinafter set forth.

(d) As used herein, "Associates" means all persons, firms, associations or corporations that are agents, including sub-agents, employees or affiliates of Members; or are otherwise subject to the control of a Member or which themselves control a Member, or are commonly controlled by any person, firm, association or corporation which controls a Member.

(e) Member Cooperation.

All Members, and their officers, employees and Associates, shall cooperate with, and provide information to the E.A. Refusal to so cooperate shall constitute a violation of the Agreement subject to a fine.

SECTION 2: ENFORCEMENT PROCEDURES

When a complaint is lodged with the E.A., or it otherwise finds evidence of a possible breach of the Agreement, the E.A. shall afford the accused Member fundamental fairness by observing, inter alia, the rules and procedures stated herein and shall:

(a) Provide a Member accused of breach of its obligations (a "violation") with a written charge and an opportunity to reply thereto prior to reaching a final determination that a violation has been committed.

Such a charge, or any revised or supplemental charge (a "charge"), shall apprise the accused Member of the nature of the case against it, including each alleged violation and the evidence proffered by the E.A. in support thereof, and which evidence, along with a proposed fine, shall be included with the charge and made available to the accused Member so as to enable said Member to fairly reply thereto and present its case, including all evidence and argument with respect to any alleged violation it may deny or the level of any proposed fine it may contest. The charge, reply and all materials presented by the E.A. and the Member in conjunction therewith shall be included in a confidential record of the case.

(b) Afford an accused Member opportunity to reply to a charge, in writing, within thirty calendar days after service thereof. Such a reply shall, inter alia, state whether the accused Member admits, denies or does not contest each violation alleged in the charge and, to the extent any alleged violations are denied, include all evidence, argument, mitigating circumstances, or other contentions or requests for relief the accused Member may elect to present in defense of its interest. Failure to reply to a charge within the time prescribed, or any enlargement thereof granted by the E.A. for good cause shown, shall conclusively establish that the accused Member does not contest the violations alleged therein and the proposed fine shall be assessed and entered as a final determination which shall not be subject to further procedures, review or arbitration. A

confidential report of such disposition of the charge shall be provided to the accused Member and the Conference by the E.A. Should the E.A. determine to conduct further investigations or review upon receipt of a reply denying violations alleged in a charge, or contesting the level of a proposed fine, it shall so promptly advise the accused Member and thereafter afford said Member an opportunity to reply, in writing, within twenty calendar days and otherwise in the same manner in which an accused Member may reply to an initial charge, to any revised or supplemental charge or proposed fine level which the E.A. may determine to issue and the E.A. shall thereafter proceed as provided in sub-paragraph (d) of this sub-Section. Should the E.A. determine not to issue a revised or supplemental charge or proposed fine level upon completion of such further procedures, it shall so promptly notify the accused Member and thereafter proceed as provided in said sub-paragraph (d).

(c) To the extent, in its reply thereto, an accused Member admits, or states that it does not contest, the violations alleged in a charge, reduce the proposed fine or fines by 25%, or by more should it find mitigating circumstances so warrant; assess and enter the fine or fines so established as a final determination of the charge or relevant part thereof, and which determination shall not be subject to further procedures, review or arbitration; and provide a confidential report thereof to the accused Member and the Conference.

(d) To the extent an accused Member denies the violations alleged, or any of them, in its reply to a charge, proceed to reach a final determination on the merits thereof. The E.A. may also endeavor to settle the matter with the accused Member, with or without prejudice or admission of violation, on such terms and conditions as it deems fair and just in the circumstances including the issuance of warning letters, cease and desist orders and the imposition of other sanctions, whether in the nature of fines or consent decrees. All such settlements shall be confidential, stated in writing, signed by the E.A. and the accused Member, provided to the Conference, constitute the final and binding determination of the matter and therefore not subject to arbitration.

SECTION 3: RULES OF PRACTICE AND PROCEDURE AND  
OPERATING GUIDELINES

Subject to the prior approval of the Conference, the E.A. may issue and revise such rules of practice and procedure and operating guidelines, not inconsistent with the provisions hereof, as it shall consider appropriate to discharge its duties in an effective and fair manner. All such rules and guidelines, or revisions thereto, shall be provided to the Conference.

SECTION 4: DETERMINATION STANDARDS

(a) The E.A. shall make a final determination on the merits with respect to each violation alleged in a charge and denied by an accused

Member in its reply thereto and which is not otherwise settled. In reaching such a final determination, the E.A. shall consider the record as a whole but shall not be bound by legal rules of evidence and shall not be obliged to observe or apply such rules, nor shall the E.A. be required to carry the burden of proof generally applicable in criminal or civil judicial proceedings. However, proof relied upon by the E.A. in support of a final determination of the commission of a violation shall be credible and reasonably related thereto. As used herein, the term "credible" shall include proof which is relevant, material, probative and reliable with respect to the matter under investigation, whether circumstantial, hearsay, corroborated or not, and consideration shall be given to the weight and persuasiveness of such proof but not to its admissibility under legal rules of evidence. Written statements of another Member for or against an accused Member may be considered, but the identity of any person providing such a statement, and who requests and shows good cause for anonymity because of competitive or other commercial reasons, need not be revealed and such statements so considered shall be included in the record. Any part of such a statement which would reveal the identity of the person providing it may be deleted or summarized, provided that all allegations unfavorable to the accused Member are made known to it in sufficient detail so as to permit opportunity for rebuttal or explanation thereof.



(b) In reaching final determinations, the E.A. shall consider the record in light of the intent of the Members to provide for effective self-policing and with due regard to the commercial realities of the marketplace. The E.A. shall be entitled to draw such inferences from the facts of record, and arrive at such findings and conclusions with respect thereto, as common sense and the practical judgment of experienced business people reasonably warrant. Nevertheless, a final determination by the E.A. that an accused Member has committed a violation need be supported by such evidence as a reasonable mind might accept as adequate to support that conclusion, and the E.A. shall consider all relevant factors, rationally connect the facts it finds to the decision it reaches and cite the credible proof upon which those findings are based in its report.

(c) Should the E.A., in the performance of its duties and for any cause, be denied, or otherwise precluded from the opportunity to inspect or copy any relevant documents or property in the possession or under the control of a Member or its Associates, the E.A. shall state that fact and set forth the circumstances thereof in any charge served upon the Member alleging a violation of the matter to which the E.A.'s unsuccessful effort to inspect or copy was related. In the event the accused Member does not thereafter promptly provide for such inspection or copying, or does not persuasively show in its reply to a charge denying the violation alleged,



that neither it nor its Associates, as the case may be, may lawfully permit such inspection or copying notwithstanding diligent good faith efforts to obtain permission therefore, the E.A. may draw inferences adverse to the accused Member with regard to the matter and such inferences may be employed by the E.A. in support of findings and determinations that the accused Member has committed the violation alleged. The foregoing provisions shall not be construed to otherwise relieve any Member of its obligations under the Agreement or restrict the enforcement of those obligations by the E.A.

SECTION 5: REPORTS OF FINAL DETERMINATIONS

After reaching a final determination, the E.A. shall promptly provide the accused Member and the Conference with a signed written confidential report thereof. Such a report shall include a statement of the E.A.'s findings and conclusions; if a fine is assessed, the amount and basis thereof; and any other sanctions imposed.

SECTION 6: FINES

- (a) Each violation shall be subject to a fine not to exceed \$50,000.
- (b) The amount of any fine shall be determined with due regard to the nature and gravity of the violation involved, including the following considerations:

(1) whether the violation was inadvertently or intentionally committed, the level of management with knowledge thereof, the degree of culpability and the presence or absence of effective internal controls and their administration;

(2) the number, nature and gravity of previous violations by the Member;

(3) the commercial and competitive advantages gained by the accused as a result of the violation and its adverse consequences vis a vis other Members;

(4) the extent to which the violation offended the substance and spirit of the Agreement or was technical;

(5) whether a fine or penalty has been imposed on or paid by the accused Member for the same violation in a criminal, civil or administrative proceeding;

(6) whether the violation was admitted, not contested or denied; and

(7) any other mitigating or aggravating circumstances.

(c) When a fine is assessed, the accused Member shall pay it to the Conference within twenty-one calendar days following receipt of service of the E. A. 's report unless, within that time, or any enlargement thereof granted by the E. A. for good cause, the Member demands arbitration. Arbitration may be demanded by delivery of written notice thereof to the

E.A. and the posting of additional security with the Conference in a sum covering that portion of a disputed fine, if any, in excess of the amount of the Member's financial guarantee under Article 7.1(c) of the Agreement and in the form specified therein. If arbitration is not so demanded, or if demanded and the aforesaid security requirement not so satisfied, the final determination of the E.A. will be binding and conclusive and not subject to arbitration. Written notice of the payment of fines and the posting of security, and the receipt thereof, shall be immediately provided to the E.A. by the concerned Member and Conference Chairman. All fines collected by the Conference shall be credited to the accounts of the Conference Members in equitable proportions as they may agree except that the Member paying a fine shall not receive credit with respect thereto.

SECTION 7: TIME-BAR

Except in the case of fraudulent concealment or willful misrepresentation by an accused Member or Associate thereof, the E.A. shall not initiate action or continue to pursue any matter in which an alleged breach of a Member's obligations under the Agreement occurred more than two (2) years prior to the service of a written charge by the E.A. upon an accused Member with respect thereto. A report of any investigations commenced by the E.A. and time-barred pursuant hereto shall be provided to the Conference. Provided, however, that in the case of a continuing violation, evidence of breach

during the time-barred period may be considered by the E.A. in determining the level of the fine or other sanction to be imposed in connection with a finding of violation during the subsequent non-time period.

SECTION 8: ARBITRATION

(a) Where arbitration is demanded pursuant to Section 6(c) of this Annex to the Agreement, it shall be conducted in accordance with the U.S. Arbitration Act, 9 USC §§1-14, and the Rules For Arbitration Procedures adopted by the Society of Marine Arbitrators, Inc. (the "Society"), and any amendments thereto, in the form obtaining at the time the arbitration is initiated (the "Rules").

(b) Arbitration shall be held in New York City at a place to be determined by the Arbitrator unless the parties agree that it be held elsewhere and in which event the arbitration shall be held in the locality, and at the place, so alternatively determined.

(c) Written notice of a demand to arbitrate shall contain a statement setting forth the nature of the dispute, the amount involved, if any, the remedy sought, and also included a certification that security, as stipulated at Section 6(c) of this Annex to the Agreement, has been posted.

(d) Arbitration hereunder shall be conducted by a single arbitrator appointed by agreement of the Parties, or, upon their joint written request, by the Secretary of the Society (the "Secretary"). Provided, however, that

should the Parties not agree to either of the aforesaid alternatives within twenty one (21) calendar days from the date of the E.A.'s receipt of a Member's notice of demand for arbitration, either Party may, at any time thereafter, and by writing with copy to the other, request the Secretary to appoint the single arbitrator. The single arbitrator appointed by the Parties or, upon their joint or individual request, by the Secretary, may be, but is not required to be, a person listed in the Roster of Arbitrators of the Society.

(e) The Parties may, by written agreement, elect to submit any relevant dispute to arbitration on documents alone pursuant to Section 26 of the Rules and also may so elect to arbitrate pursuant to Simplified Procedure in accordance with Appendix A of the Rules. Provided, however, that in the latter case, and notwithstanding any provision of the Simplified Procedure to the contrary, the total amount in dispute shall not exceed \$50,000 and the single arbitrator shall be selected as provided for at paragraph (d) of this Section of this Annex to the Agreement.

(f) It is hereby expressly stipulated in advance, that any award issued in consequence of any matter arbitrated pursuant hereto shall not be published by the Society and/or any of its correspondents, but shall be held in strict confidence and not disclosed to any third party by the Society.

(g) It is further expressly stipulated that all fees and expenses of the arbitrator shall be for the account of the party at fault, or otherwise

failing to prevail on the merits, in any matter settled by arbitration hereunder. All other cost and expenses of the arbitration shall be paid for and borne by the parties as provided in the Rules. Provided, however, that each Party shall bear its own attorney's costs, if any, and no claim therefore shall be considered by the arbitrator.

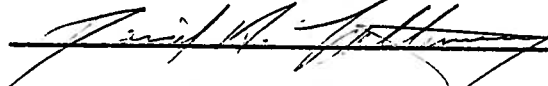
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New York, N. Y.


June 27, 1985

IN WITNESS WHEREOF, the Members have caused this Annex to be  
executed below by their duly authorized representatives.

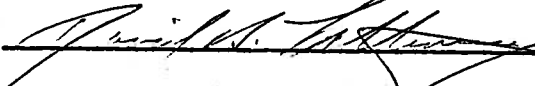
FARRELL LINES INCORPORATED

Signature:   
Name: David B. Letteney  
Title: Attorney-In-Fact

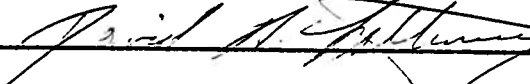
SEA-LAND SERVICE, INC.

Signature:   
Name: David B. Letteney  
Title: Attorney-In-Fact

UNITED STATES LINES, INC.

Signature:   
Name: David B. Letteney  
Title: Attorney-In-Fact

LYKES BROS. STEAMSHIP CO., INC.

Signature:   
Name: David B. Letteney  
Title: Attorney-In-Fact

New York, New York

June 27, 1985